

Magistrate Judge J. Richard Creatura

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

| NO. CR21-5385BHS

Plaintiff,

**GOVERNMENT'S RESPONSE TO
DEFENDANT'S SECOND MOTION
FOR RELEASE**

JOSEPH TURREY.

Defendant.

This Court should deny Turrey's request for release because Turrey remains a danger to the community due to his long-standing sexual abuse of his children, which he was able to hide from those closest to him for years.

I. INTRODUCTION

Defendant Joseph Turrey is charged with sexually assaulting his daughters over a seven-year-period on the Lower Elwha Klallam Reservation. On November 17, 2021, the grand jury returned an indictment charging Turrey, an enrolled member of the Lower Elwha Klallam Tribe, with two counts of Aggravated Sexual Abuse of a Minor, in violation of 18 U.S.C. §§ 2241(c), and 2246(2)(D), and one count of Sexual Abuse of Minor in violation of 18 U.S.C. §§ 2243(a), and 2246(2)(C). On March 9, 2022, the grand jury returned a superseding indictment charging Turrey with four counts of Aggravated Sexual Abuse of a Minor, in violation of 18 U.S.C. §§ 2241(c), and 2246(2)(A), (C), and

1 (D), one count of Abusive Sexual Contact in violation of 18 U.S.C. §§ 2244(a)(5), and
 2 2246(3), and two counts of Sexual Abuse of Minor in violation of 18 U.S.C. §§ 2243(a),
 3 and 2246(2)(A) and (B). Count 1 charges Turrey with aggravated sexual abuse against
 4 MV1 and Counts 2 through 7 charge him with abuse against MV2.

5 II. BACKGROUND AND SUMMARY OF EVIDENCE

6 Between 2008 and 2016, Turrey sexually abused three of his daughters. Turrey is
 7 an enrolled member of the Lower Elwha Klallam Reservation, a former tribal council
 8 member, and a former Chief of Police for the Hoh Reservation. Turrey and his wife
 9 (Brenda Turrey) share nine children, including twins they adopted who are currently 14
 10 years old. In 2016, Turrey moved out of the family home over Super Bowl Sunday
 11 weekend following the revelation he had been having a secret affair for over a year.
 12 Although separated, Brenda and Turrey managed to maintain a cordial relationship and
 13 he was actively involved in the family's life until his children disclosed the abuse in
 14 2021.

15 On Saturday, September 25, 2021, Kelsi Turrey and her younger sister MV3 (who
 16 is currently 21 years old and is an uncharged victim), were watching a movie at Kelsi's
 17 house and started discussing family dynamics. During this conversation, MV3 disclosed
 18 to Kelsi that their father sexually abused her when she was twelve years old. During her
 19 FBI interview, MV3 described sharing a two-bed hotel room with her father and two of
 20 her siblings while on Squaxin Island for canoe races. One night when MV3 shared a bed
 21 with Turrey, MV3 awoke to find Turrey grabbing and squeezing her vagina while he
 22 made "happy noises." The incident lasted a few minutes. Afterwards, Turrey told her
 23 "I'm really sorry baby. You are beautiful. Don't let anyone ever do that to you."

24 MV3 did not disclose the abuse to anyone at the time but told her mother after
 25 Turrey moved out in 2016. Her mother confronted Turrey, who admitted to touching
 26 MV3. Ultimately the abuse was not reported to law enforcement due to Mrs. Turrey's
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1 concern about what MV3 would have to go through if it were reported.¹ During her law
 2 enforcement interview, MV3 said that although she and Turrey never talked about the
 3 abuse, he unexpectedly apologized to her several years ago when the two were driving
 4 into town.

5 During her disclosure to Kelsi, MV3 mentioned she believed that Turrey also
 6 abused their 19-year-old sister (MV2). Kelsi and MV3 communicated with MV2 over
 7 text and phone that night before driving to her boyfriend's house to speak with her. MV2
 8 confirmed that Turrey sexually abused her from the age of seven until just before she
 9 turned fourteen. During this contact with her sisters, MV2 was sobbing hysterically and
 10 threw up.

11 During her FBI interview, MV2 described the years of sexual abuse she endured,
 12 including both digital and penile rape, and oral sex. For the first few years, Turrey
 13 fondled and digitally penetrated MV2 (Counts 2-3). Turrey also sexually abused MV2
 14 during the same family outing to canoe races on Squaxin Island in which he sexually
 15 abused MV3. Eventually, the fondling and digital penetration evolved into oral sex and
 16 penile/vaginal intercourse. The first instance of penile rape occurred in 2012 at the Great
 17 Wolf Lodge during a family celebration for MV3's birthday. MV2 estimated at least
 18 seven to ten instances of vaginal rape at the family home on the Lower Elwha Klallam
 19 Reservation. During her forensic interviews, MV2 gave detailed accounts of specific
 20 instances of rape involving vagina and oral penetration (Counts 4, 6, and 7). She also
 21 described an instance where Turrey made her use her hand to masturbate him until he
 22 ejaculated one night in his bathroom (Count 5). Another sister corroborates seeing MV2
 23 leaving the bathroom crying after this incident.

24 Occasionally, MV2 resisted her father's advances. When this happened, Turrey
 25 threatened to touch her younger sisters instead. MV2 recalled being ten-years-old the first
 26 time her father threatened to molest her younger sisters. Not wanting her sisters harmed,
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28¹ When Mrs. Turrey was a child she was the victim of sexual abuse that went through the court system, so she is keenly aware of the hardship that a court case can be on a child victim.

1 MV2 did what Turrey wanted. MV2 said the sexual abuse stopped when she was thirteen
 2 years old. MV2 described that Turrey would be “extra nice” during the rapes if he was
 3 sober but yelled and used force if intoxicated. MV2 described that she got special
 4 treatment and gifts from Turrey that she attributes to the abuse.

5 Following MV2’s disclosure and despite Kelsi specifically asking her not to, their
 6 mother called Turrey and confronted him on Sunday (September 26). During their
 7 discussion, Turrey denied touching MV2, but admitted to touching MV3. After this
 8 confrontation, Turrey started phoning his children. The eldest son in the family had been
 9 made aware of the sexual abuse by Kelsi. He spoke with Turrey over the phone on
 10 Sunday and angrily confronted his father. Turrey admitted to his son that he touched
 11 MV3 but denied any contact with MV2.

12 That same day, Kelsi decided to speak with each of her younger sisters
 13 individually. During their conversation, 14-year-old MV1 disclosed to Kelsi that their
 14 father sexually assaulted her when she was six or seven years old. During a later forensic
 15 interview, MV1 described lying on a red blanket on her parents’ bed watching television
 16 next to Turrey. As she lay there, Turrey placed his hand inside of her underwear and
 17 started “feeling” her bare vagina. Turrey rubbed her stomach with one hand and touched
 18 her vagina with his other hand. Although Turrey did not penetrate her vagina, he did
 19 apply pressure to it during the incident. MV1 felt “terrified” and said the abuse made her
 20 feel “really bad.”

21 After that September weekend, and notably after the disclosures, Mrs. Turrey
 22 initiated official divorce proceedings and the children moved in with Kelsi.

23 III. DISCUSSION

24 In determining whether there are conditions of release that will reasonably assure
 25 the appearance of the defendant and the safety of the community, this Court must
 26 consider the nature and circumstances of the offense charged, the weight of the evidence,
 27 the defendant’s history and characteristics, and the nature and seriousness of the danger
 28 posed by the defendant if released. 18 U.S.C. § 3142(g).

1 A. The Nature and Circumstances of the Offense

2 The nature and circumstances of this offense support detention. There is a
 3 presumption that no condition or combination of conditions will reasonably assure the
 4 appearance of the defendant as required and the safety of the community, based on the
 5 nature of the charges. 18 U.S.C. § 3142(e)(3)(A). Here the presumption is not only
 6 supported by the general nature of the charges, but also the specific facts of the case and
 7 the potential penalty that the defendant is facing. First it is important to note that the
 8 presumption is not erased when a defendant proffers evidence to rebut it; rather the
 9 presumption “remains in the case as an evidentiary finding militating against release, to
 10 be weighed along with other evidence relevant to factors listed in § 3142(g).” *United*
 11 *States v. Hir*, 517 F.3d 1081, 1086 (2008). Once a defendant introduces rebuttal evidence,
 12 the presumption, rather than disappearing altogether, continues to be weighed along with
 13 other factors to be considered when deciding whether to release a defendant. *Id.*; *see also*
 14 *United States v. Jessup*, 757 F.2d 378, 382-83 (1st Cir.1985) (rejecting the “bursting
 15 bubble” approach).

16 In looking at the risk to the community, the defendant’s alleged conduct is highly
 17 probative. Here, the defendant subjected three children, who he was trusted to protect and
 18 care for, to sexual abuse, including ongoing assaults on MV2 that lasted from roughly age
 19 seven to age thirteen. These assaults included vaginal, digital, and oral penetration.
 20 Turrey not only repeatedly raped MV2, but starting at age ten he kept her silence through
 21 threats that he would rape her younger sisters if she were to deny him. When MV2 was
 22 10, her sisters would have been 5 and 6 years old.

23 The severity of the potential punishment in this case supports detention as well.
 24 Congress has decided that this type of case warrants a presumption of detention, as well
 25 as a 30 mandatory minimum sentence. Not even murder has a mandatory minimum, but
 26 Congress has said that the Court is to consider the nature of this offense in the most
 27 serious terms. Congress’ determination is understandable, when the Court considers the
 28 defendant’s conduct here and the harm that he has inflicted on these children for life.

1 B. The Weight of the Evidence

2 The Court is required to ascribe the least weight to the strength of the evidence,
 3 among the four factors, when considering whether to release a defendant. *United States v.*
 4 *Motamedi*, 767 F.2d 1403, 1408 (9th Cir. 1985). The weight of the evidence nonetheless
 5 favors detention due to the detailed and credible disclosure by the victims and the
 6 defendant's subsequent admissions. The government's case is strong. The victims all give
 7 detailed, credible accounts of the sexual abuse and the observations of non-victim
 8 siblings corroborate that abuse. Additionally, Turrey has admitted to sexually abusing
 9 MV3 to Mrs. Turrey and their oldest son.

10 Turrey, in his Second Motion for Release and through the multiple delcarations of
 11 his friends' speculation, suggests to the Court that the victims' disclosures came about
 12 because of his divorce from Mrs. Turrey. Dkt. 45. But Mrs. Turrey, who has been legally
 13 separated from Mr. Turrey since the 2016 revelation of his ongoing affair, filed for
 14 divorce *after* the victims' disclosures in September of 2021. The speculation of Turrey's
 15 friends that Mrs. Turrey exercises a high level of control over the victims, two of whom
 16 are now adults, is also not borne out by the facts. The children now reside with a sister,
 17 not Mrs. Turrey, because Mrs. Turrey's relationship with her children has been fractured
 18 by these events as well.

19 The declarations attached to the Second Motion for Release do not weaken the
 20 Government's case. Child sexual abuse often happens in secret, away from the eyes of
 21 neighbors and acquaintances, and the power dynamics allow perpetrators to keep child
 22 victims silent. These dynamics are even more fraught when the abuser is a parent who the
 23 child loves and trusts. Observations that the victims still appeared to love the defendant
 24 as they grew up, despite what he did to them, are a reflection of those dynamics and an
 25 example of how adept Turrey is at keeping his victims compliant.

26 C. The History and Characteristics of the Defendant

27 Turrey does not have criminal history and he has significant ties this community,
 28 however this is not dispositive for detention. The Ninth Circuit in *Hir* specifically

1 considered and rejected the idea that the government must present a record of violence or
 2 dangerous conduct in order to justify detaining a defendant on grounds of dangerousness.
 3 *Hir*, 517 F.3d at 1091. The Ninth Circuit relied solely on the facts of the case, which did
 4 not involve direct harm to victims as this case does, and found Hir dangerous despite his
 5 lack of criminal history, ties to the community, and a pretrial services report
 6 recommending detention.

7 Here, the positions of trust that Turrey has enjoyed act as a double-edged sword –
 8 they allow him to evade suspicion and make it even more difficult for victims to come
 9 forward. During the Squaxin Island Canoe Journeys, which he attended as an esteemed
 10 member of the tribal council, he sexually assaulted two of his daughters behind closed
 11 doors. During his years as a law enforcement officer, he was repeatedly raping his child
 12 in their home. His positions as a law enforcement officer and military veteran afford him
 13 trust and respect that cloak him in a presumption of trustworthiness in his community.
 14 The letters written on his behalf are evidence of that; Turrey’s friends refuse to believe
 15 the allegations, though they have not heard any of the Government’s evidence, because
 16 he is an esteemed member of the community with a law enforcement and military
 17 background. Because Turrey’s community refuses recognize the risk that he poses to
 18 children, they will not be vigilant to keep the children in their community safe.

19 D. The Nature and Seriousness of the Danger Posed by the Defendant

20 The danger to the community here is of the most serious kind. Again, the Ninth
 21 Circuit in *Hir* confirms that this Court is to look to the facts of the underlying case to
 22 evaluate this factor. The Court is looking at what potential harm it is risking inflicting on
 23 the community by releasing the defendant. The defendant is alleged to have sexually
 24 abused and raped young children over a roughly seven-year period. The nature of harm
 25 here is the some of the most serious that this Court will see. This was not an isolated
 26 incident; the defendant repeatedly victimized multiple young children, with whom he had
 27 a position of trust over, and he used threats to ensure MV2’s compliance.

The defendant may claim he is somehow less dangerous because these acts occurred in some time ago. First, they did not stop because the defendant had a change of heart; they stopped because he moved out of the house in February 2016, so he no longer had unfettered access to the children, specifically MV2. The blind trust that the members of his community appear to place in him adds to Turrey's dangerousness, because the people who wrote those letters will not be vigorously watching over him. As many of them say, they would still trust him with their kids. That is the problem with ensuring the defendant does not have access to any other children- enforcement of any conditions is reliant on the defendant and those around him. Because the harm to any present or future victims is so great in this case the Court must be exceedingly vigilant, particularly when the community that Turrey will be released back into will not exercise that vigilance itself. This factor weighs heavily in favor of detention.

IV. CONCLUSION

14 The Section 3142 factors justify detention in this case. Where there is a
15 presumption of detention, the burden is on the defendant to show the Court that he is not
16 a flight risk or risk to the community. The defendant's lack of criminal history and ties to
17 the community are not sufficient to overcome the presumption in this case given the
18 nature and circumstances of the offense and the nature and seriousness of the risk to the
19 community.

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**GOVERNMENT'S RESPONSE TO DEFENDANT'S SECOND MOTION FOR
RELEASE/ Turrey- 8
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UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

For these reasons, the defendant must continue to be detained for the protection of the community and the United States respectfully requests the Court continue to detain the defendant pending resolution of these charges.

DATED this 11th day of April, 2021.

Respectfully submitted,

Nicholas W. Brown,
United States Attorney

s/ Kristine L. Foerster

Kristine L. Foerster
Assistant United States Attorney
United States Attorney's Office
1201 Pacific Avenue, Suite 700
Tacoma, Washington 98402